

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TODD GRAY,

Plaintiff,

- against -

INTERNATIONAL BUSINESS TIMES, INC.

Defendant.

Docket No. 1:17-cv-7769

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Todd Gray (“Gray” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant International Business Times, Inc. (“IBT” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of an iconic copyrighted photograph of American singers Michael Jackson and Stevie Wonder owned and registered by Gray, a professional music photographer. Accordingly, Gray seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Gray is a professional music photographer whose career has spanned over forty-five years photographing many legendary musicians including Michael Jackson, Stevie Wonder, and Gladys Knight to name a few. Gray is in the business of selling and licensing his photographs to online and print media for a fee, having a usual place of business at 4213 Don Arellanes Drive, Los Angeles, California 90008. Gray's photographs have been showcased gallery's and museums around the world including the National Gallery in Canada, the San Francisco Museum of Art, The Museum of Contemporary Art, The Luckman Gallery, the Shoshana Wayne Gallery and Robert Koch Gallery.

6. Upon information and belief, IBT is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 7 Hanover Square, New York, New York 10004. At all times material hereto, IBT has owned and operated a website at the URL: www.IBTimes.co.uk (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Gray photographed American singers Michael Jackson and Stevie Wonder (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Gray is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-036-680.

B. Defendant's Infringing Activities

10. IBT ran an article on the Website entitled *What's on TV this weekend: England v. France rugby, The Night Manager, Michael Jackson documentary and more*. See <http://www.ibtimes.co.uk/whats-tv-this-weekend-england-v-france-rugby-night-manager-michael-jackson-documentary-more-1550403>. The article prominently featured the Photograph. A true and correct copy of the article with the Photograph is attached hereto as Exhibit B.

11. IBT did not license the Photograph from Plaintiff for its article, nor did IBT have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST IBT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

13. IBT infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. IBT is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by IBT have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant IBT be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 10, 2017

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